CMPMO No.211 of 2007.

21.9.2007. Present: Mr. Vikas Bhardwaj, Advocate, for the petitioner.

After hearing the learned counsel for the petitioner and on going through the impugned order, I feel totally convinced and absolutely satisfied that the petitioner was grossly careless as well as negligent in not filing the written statement, initially within the period of 30 days and thereafter within the extended period of 90 days. The petitioner was represented before the learned Tribunal by a counsel and, therefore, it is not open to the petitioner to contend or plead that she was not aware of the requirement of law of filing written statement within the aforesaid period. The learned Tribunal, therefore, has rightly struck off the defence of the petitioner and closed this right to file the written statement.

Mr. Bhardwaj, however, submitted that the interests of justice shall be served if this Court takes a lenient view and grants just one opportunity to file the written statement. According to Mr. Bhardwaj actually the written statement already stands filed along with the application filed under Section 151 of the Code of Civil Procedure.

I tend to agree with the aforesaid submission of the learned counsel for the petitioner and granting indulgence because of the aforesaid vehement request of Mr. Bhardwaj. I, on compassionate ground set aside the impugned order and

direct that the written statement filed by the petitioner along with her application filed under Section 151 of the Code of Civil Procedure shall be accepted by the learned Tribunal subject to the petitioner paying Rs.10,000/- as costs to respondent No.1 within two weeks from today. If the amount of costs is not paid within the aforesaid period, this order shall cease to operate and the impugned order passed by the Tribunal shall stand revived.

Since the aforesaid order has been passed in the absence of the respondents for the sake of expeditious disposal of the matter, I permit the respondents to approach this Court for recall of this order, if they are so advised.

The petition is disposed of.

CMP No.774 of 2007.

In view of the disposal of the main petition, this application shall also stand disposed of.

Dasti copy on usual terms.

21st September, 2007. (V.K. Gupta), C.J.
(tr)